

REPRESENTATIVE FOR PETITIONER: David E. Crosby and Barbara S. Crosby, Pro Se

REPRESENTATIVE FOR RESPONDENTS: None

**BEFORE THE
INDIANA BOARD OF TAX REVIEW**

David E. and Barbara S. Crosby,)	Petition No.: 49-400-06-3-5-00059
)	Parcel No.: 4025564
Petitioners,)	
)	
v.)	
)	Marion County
Marion County Assessor and)	Lawrence Township
Marion County Auditor,)	2006 Assessment
)	
Respondents.)	

Form 133 Petition for Correction of Errors

April 1, 2009

FINAL DETERMINATION

The Indiana Board of Tax Review (Board) has reviewed the evidence and arguments presented in this case. The Board now enters its findings of fact and conclusions of law.

Issues

Does the Board have jurisdiction concerning the Petitioners' claim that they were improperly denied their homestead tax credit provided in Ind. Code § 6-1.1-20.9?

If the Board has jurisdiction, did the Petitioners prove the homestead credit on their residence must be given for the taxes on the 2006 assessment?

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FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. The subject property is a house located at 10760 Weatherly Court in Indianapolis.
2. On November 8, 2007, the Petitioners filed a Form 133 Petition for Correction of an Error with the Marion County Auditor, who disapproved it. There is no indication that the Township Assessor or County Assessor took any action on it. Nevertheless, the Property Tax Assessment Board of Appeals (PTABOA) determined that the Petitioners failed to provide sufficient proof that they are entitled to a homestead credit.
3. On May 11, 2008, the Board received their Form 133 Petition seeking correction regarding the 2006 assessment/2007 tax bill. They requested a change because “through error or omission by any state or county officer the taxpayer was not given credit for an exemption or deduction permitted by law.”
4. The Board’s designated Administrative Law Judge, Ted Holaday, held a hearing on that petition in Indianapolis on March 19, 2009. He did not conduct an on-site inspection of the property.
5. The Petitioners, David E. Crosby and Barbara S. Crosby, were sworn as witnesses and testified at the hearing. No Respondent appeared.
6. The Petitioners presented the following exhibits:
 - Exhibit 1—Issue Summary,
 - Exhibit 2—Form HC10 Claim for Homestead Property Tax Credit/Standard Deduction,
 - Exhibit 3—Form 133,
 - Exhibit 4—IPL invoice,
 - Exhibit 5—Indianapolis Water invoice,
 - Exhibit 6—Citizens Gas invoice,
 - Exhibit 7—Warranty Deed.
7. The Respondents did not submit any exhibits.

Summary of the Petitioners’ Case

8. The Petitioners own and live in the subject property—it is their home. They timely filed a Form HC10 Claim for Homestead property Tax Credit/Standard Deduction (Form HC10), but the Petitioners’ did not receive the homestead credit on their tax bill for the year 2006. They meet all the necessary requirements for the homestead credit and should

have it for the 2006 tax year. The County Auditor said there was no record of receiving their Form HC10 and the Petitioners do not have a receipt for filing the form. Therefore, the County Auditor denied the homestead credit. *D. Crosby testimony; Pet'r Ex. 1-7.*

9. The directions for filing the Form HC10 state that if somebody wants a receipt for filing the Form HC10, the individual must provide a self-addressed stamped envelope to the County Auditor's Office. The Petitioners admit that they did not provide a self-addressed stamped envelope, but argue that a file-marked receipt is not required under the Indiana Code. *D. Crosby testimony; Pet'r Ex. 1.*
10. Indiana Code § 6-1.1-20.9-2, specifies the requirements for a homestead credit. It does not mandate a receipt from the county auditor as the only way to receive a homestead credit.¹ *B. Crosby testimony.*
11. The Petitioners filed the HC10. It is quite possible that the Auditor's Office lost the information. The County Auditor stated that "due to an error in 2006 filing, prior to my taking office," exemptions were not applied to some taxpayers' tax bills. The Petitioners' bill may have been one of these. *B. Crosby testimony; Pet'r Ex. 1.*
12. The County Auditor told the Petitioners the way to appeal the denial of their homestead credit was to file a Form 133. *B. Crosby testimony; D. Crosby testimony; Pet'r Ex. 1.*

Analysis and Decision

13. The Board is a creation of the Legislature and only has the powers conferred by statute. *Whetzel v. Dep't of Local Gov't Finance*, 761 N.E.2d 904, 908 (Ind. Tax Ct. 2002) (citing *Matonovich v. State Bd. of Tax Comm'rs*, 705 N.E.2d 1093, 1096 (Ind. Tax Ct. 1999)); *Hoogenboom-Nofziger v. State Bd. of Tax Comm'rs*, 715 N.E.2d 1018, 1021 (Ind. Tax Ct. 1999).
14. Indiana Code authorizes the Board's jurisdiction as follows:

Ind. Code § 6-1.5-4-1(a)

The [Board] shall conduct an impartial review of all appeals concerning:

- (1) the assessed value of tangible property;
- (2) property tax deduction; or
- (3) property tax exemptions....

¹ Ind. Code § 6-1.1-20.9 was repealed effective January 1, 2009.

15. At one time this statute gave the Board jurisdiction over matters involving property tax credits, but the Legislature removed the provision about credits in 2003. P.L. 256-2003, Sec. 31.
16. The Board does not have jurisdiction to issue a determination on the merits of the Petitioners' claim for the homestead credit that was provided in Ind. Code §6-1.1-20.9.
17. The Board takes no position on what might be required to prove the claim for a homestead credit.
18. The Board does not have jurisdiction over the Petitioners' claim.

This Final Determination of the above captioned matter is issued on the date first written above.

Commissioner, Indiana Board of Tax Review

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-APPEAL RIGHTS-

You may petition for judicial review of this final determination under the provisions of Indiana Code § 6-1.1-15-5, as amended effective July 1, 2007, by P.L. 219-2007, and the Indiana Tax Court's rules. To initiate a proceeding for judicial review you must take the action required within forty-five (45) days of the date of this notice. The Indiana Tax Court Rules are available on the Internet at <<http://www.in.gov/judiciary/rules/tax/index.html>>. The Indiana Code is available on the Internet at <<http://www.in.gov/legislative/ic/code>>. P.L. 219-2007 (SEA 287) is available on the Internet at <<http://www.in.gov/legislative/bills/2007/SE/SE0287.1.html>>.